

DEPARTMENT OF STATE REVENUE
LETTER OF FINDINGS: 04-0193
Indiana Adjusted Gross Income
For 1999 and 2000

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of the document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUES

I. Constitutionality of Indiana Adjusted Gross Income Tax.

Authority: Ind. Const. art. X, § 8; IC 6-3-1-3.5(a); IC 6-3-1-8; IC 6-3-1-9; IC 6-3-1-12; IC 6-3-1-15; United States v. Collins, 920 F.2d 619 (10th Cir. 1990); Betz v. United States, 40 Fed. Cl. 286 (Fed. Cl. 1998); Snyder v. Indiana Dep't of State Revenue, 723 N.E.2d 487 (Ind. Tax Ct. 2000); 26 U.S.C.S. § 61(a); 26 U.S.C.S. § 62.

Taxpayer argues that she is not subject to the legislation imposing Indiana's adjusted gross income tax because she is a "NATURAL-BORN, FREE adult Citizen* of the Indiana Republic."

II. Proposed Assessment – Adjusted Gross Income Tax.

Authority: IC 6-8.1-1-1; IC 6-8.1-3-1(a); IC 6-8.1-5-1(a).

Taxpayer maintains that she is not required to pay state income taxes because she did not file 1999 or 2000 state tax returns.

STATEMENT OF FACTS

The Department of Revenue (Department) determined that taxpayer owed additional income tax for 1999 and 2000. The Department then sent taxpayer notices of "Proposed Assessment." Taxpayer responded by stating that she did not file returns for either 1999 or 2000 and that she wished to avail herself of "whatever administrative or judicial remedies are available to dispute the alleged liabilities." In addition, taxpayer submitted an "Affidavit" setting out multiple challenges to the applicability of the state's individual income tax.

Taxpayer's response was treated as a formal protest. Taxpayer declined the opportunity to take part in an administrative hearing or to provide supplementary documentation. This Letter of Findings was prepared based upon the initial protest letter and the "Affidavit."

DISCUSSION

I. Constitutionality of Indiana Adjusted Gross Income Tax.

According to taxpayer, “Recent diligent studies have convinced [her] that [s]he is not ‘subject to’ the territorially-limited ‘exclusive Legislation’ and its foreign jurisdiction mandated for Washington, D.C. . . .” Taxpayer states that the federal income tax – and by extension Indiana income tax – is the result of a “shrewd and criminal Constructive Fraud . . . perpetrated upon America by government under counterfeit ‘color of law’, through apparent entrapments of ‘certain ACTIVITIES (monopoly occupations) and PRIVILEGES’ (other benefits) allowed by Statutory Acts or otherwise.” Having detected an elaborate government plot against its own citizenry, taxpayer decided that it would be best to “REVOKE” all her previous signatures “and render them null and void except for those that I choose to have measured as being under ‘TDC’ (threat, duress and/or coercion) and/or ‘without prejudice’ (per UCC 1-207), past and now.”

Taxpayer has provided a densely-written, vertigo-inducing challenge to Indiana’s authority to impose an individual income tax. To support that challenge, taxpayer has cited to the “U.S. Criminal Codes,” Uniform Commercial Code, United States Supreme Court case law, and various provisions of the United States Constitution.

Under the Indiana Constitution, “The general assembly may levy and collect a tax upon income, from whatever source derived, at such rates, in such manner, and with such exemptions as may be prescribed by law.” Ind. Const. art. X, § 8. The Indiana Tax Court has stated that, “The constitutional legitimacy of the general assembly’s decision to tax income is beyond dispute. The right to tax is a crucial attribute of sovereignty.” Snyder v. Indiana Dep’t of State Revenue, 723 N.E.2d 487, 488 (Ind. Tax Ct. 2000). Under that taxing authority, the General Assembly has enacted the Adjusted Gross Income Tax of 1963 (Act). IC 6-3-1-1 et seq.

The Act defines “adjusted gross income” in the case of individuals, as the term is defined in 26 U.S.C.S. § 62 with certain modifications specific to Indiana. IC 6-3-1-3.5(a). Thus “adjusted gross income” is, “in the case of an individual, gross income minus . . . [certain] deductions.” 26 U.S.C.S. § 62. Similarly, the Act incorporates the definition of “gross income” as found in I.R.C. § 61(a). IC 6-3-1-8. Therefore, “gross income” consists of “all income from whatever source derived . . .” 26 U.S.C.S. § 61(a).

The Indiana General Assembly has chosen to tax the income earned by individuals and – in defining the extent of the state income tax – has incorporated provisions of the Internal Revenue Code. Taxpayer’s conclusion – that she is not subject to state income tax because the federal provisions are applicable only to residents of certain federal enclaves – is not well founded and has been consistently rejected by the courts. “For seventy-five years, the Supreme Court has recognized that the sixteenth amendment authorizes a direct nonapportioned tax upon United States citizens throughout the nation, not just in federal enclaves . . . [and] efforts to argue otherwise have been sanctioned as frivolous.” United States v. Collins, 920 F.2d 619, 629 (10th Cir. 1990) (Internal citation omitted). “Pursuant to the authority vested in Congress under the Sixteenth Amendment to impose a direct income tax on citizens and residents of the United States comprised of the 50 states and the District of Columbia, Congress enacted Title 26 of the United States Code, the Internal Revenue Code.” Betz v. United States, 40 Fed. Cl. 286, 295 (Fed. Cl. 1998). “The I.R.C. applies to ‘United States persons,’ defined as ‘citizen[s] or resident[s] of the United States.’ 26 U.S.C. § 7701(a)(30)(A) (1994). In addition, the I.R.C.’s

definition of ‘United States’ includes ‘the States and the District of Columbia.’ 26 U.S.C. § 7701(a)(9) (1994).” Id.

Taxpayer is of the opinion that, with the just the right combination of semantic technicalities and obscure legal references she can render herself immune from Federal and state tax liability. There is not one single Federal or state court case which supports such a fanciful notion. Wishful thinking aside, given that taxpayer received gross income (I.R.C. § 61) in 1999 and 2000, is an “individual” under IC 6-3-1-9, was a resident of Indiana for the years 1999 and 2000 (IC 6-3-1-12), and is a “taxpayer” as defined within (IC 6-3-1-15), the statutes imposing the Indiana individual income tax apply with full force to taxpayer’s income as they do to every other resident of this state.

FINDING

Taxpayer’s protest is denied.

II. Proposed Assessment – Adjusted Gross Income Tax.

Taxpayer argues that she is not subject to the state income tax because she did not file Indiana tax returns and that she has officially revoked her permission for anyone to prepare a tax return on her behalf.

Under IC 6-8.1-3-1(a), “The department [of revenue] has the primary responsibility for the administration, collection, and enforcement of the listed taxes.” The term “listed tax” is defined at IC 6-8.1-1-1 which specifically includes “the adjusted gross income tax” as one of the Indiana’s “listed taxes.” As one aspect of that responsibility, the Department is required to issue a “proposed assessment” if there is reason to believe that an individual has underreported his income. “If the department reasonably believes that a person has not reported the proper amount of tax due, the department shall make a proposed assessment of the amount of unpaid tax on the basis of the best information available.” IC 6-8.1-5-1(a). In taxpayer’s own case, the Department relied on information contained within taxpayer’s W-2 and 1099 forms indicating that taxpayer had obtained income during these years. Taxpayer has done nothing which refutes or brings into question the accuracy of this data.

Taxpayer also complains that the notice of proposed assessment is not signed. It is somewhat difficult to determine the specific nature of taxpayer’s grievance. Although a personalized notice of proposed assessment might have certain advantages, there is nothing in the statutes or regulations which require that a notice of proposed assessment contain a signature. It is sufficient that the document place the taxpayer on notice of a potential tax deficiency and that the taxpayer be provided with the means by which to challenge that assessment.

FINDING

Taxpayer’s protest is denied.